



CWP-6586-2025

-1-

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

115

CWP-6586-2025

Date of Decision :10.03.2025

**The Badhouchhi Kalan M.P.C.A.S.S Ltd
and others**

...Petitioners

Versus

**The Presiding Officer, Industrial Tribunal,
S.A.S Nagar, Mohali and another**

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Abhivadya Sood, Advocate for the petitioners.

* * *

Harsimran Singh Sethi, J. (Oral)

1. In the present petition, the challenge is to the award dated 24.10.2024 (Annexure P/1) passed by the Presiding Officer, Industrial Tribunal, S.A.S Nagar, Mohali, by which, the respondent-workman has been reinstated in service with continuity along with 50% back wages.

2. Learned counsel for the petitioner submits that the respondent-workman had misconducted while being in service and he was not performing his duties diligently and that is why, his services were terminated by the petitioner on 30.12.2015 hence, the respondent-workman was not entitled for any benefit qua the retrenchment compensation, which fact has been ignored by the Tribunal while passing the impugned award



CWP-6586-2025

-2-

dated 24.10.2024 (Annexure P/1) directing the reinstatement in service of respondent-workman with continuity along with 50% back wages.

3. Learned counsel for the petitioner further submits that even the appointment of the respondent-workman as Security Guard-cum-Peon was not in accordance with rules as he had already crossed the maximum age of 35 years for appointment, when he joined on the said post hence, the grant of benefit of reinstatement in service with continuity along with 50% back wages by the Tribunal vide its impugned award dated 24.10.2024 is bad.

4. I have heard learned counsel for the petitioner and have gone through the record with his able assistance.

5. Qua the argument of the learned counsel for the petitioner that the appointment of the respondent-workman was bad as he was beyond 35 years of age, it may be noticed that action against the said aspect can only be taken by conducting a departmental proceedings against the workman and by giving due opportunity of hearing to the workman concerned as the same amounts to misconduct. Concededly, no such due process was ever followed by the petitioner so as to hold an enquiry and prove the allegations alleged against the workman that the appointment of the respondent-workman was *void ab initio* on account of him being beyond the prescribed age limit for appointment. Hence, as no such process was followed by the petitioner, the argument of the learned counsel for the petitioner that the appointment of the respondent-workman was bad, cannot be accepted.

6. The further argument being raised by the learned counsel for the petitioner is that the conduct of the petitioner was not good.

7. The allegation of misconduct against the respondent-workman

**CWP-6586-2025****-3-**

has to be proved by holding the disciplinary proceedings, which process has also not been followed in the present case. Further, it has already come on record that the respondent-workman worked for a period of more than five and half years before his services were terminated.

8. Not only this, after the termination of the services of the respondent-workman, new appointments were also made on the said post, which fact is clear from the statement of MW-1 Rajinder Singh, which has been taken into consideration by the Tribunal. MW-1 is the petitioner's witness, who has deposed on the basis of the record conceding the fact that the services of the respondent-workman were terminated without issuing any charge sheet or holding any enquiry or without even payment of the retrenchment compensation, which fact has still not been rebutted by the learned counsel for the petitioner.

8. The Award can only be interfered with in case, there is any perversity in the impugned award keeping in view the evidence and facts which have been brought on record. In the present case, no perversity has been pointed out by the learned counsel for the petitioner in the impugned award dated 24.10.2024 (Annexure P/1) hence, no ground for interference by this Court is made out and the writ petition is accordingly dismissed.

March 10, 2025
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No